ORIGINAL

DOCKET FILE COPY ORIGINAL

RECEIVED

AUG 3 0 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition for Rulemaking To Determine The	)	RM-8303
Terms And Conditions Under Which Tier 1	)	
LECs Should Be Permitted to Provide	)	
InterLATA Telecommunications Services	)	

COMMENTS OF
COMPETITIVE TELECOMMUNICATIONS ASSOCIATION

Genevieve Morelli
Vice President and
General Counsel
COMPETITIVE TELECOMMUNICATIONS ASSOCIATION
1140 Connecticut Ave., N.W.
Suite 220
Washington, D.C. 20036
(202) 296-6650

Richard E. Wiley
Danny E. Adams
Edward Yorkgitis, Jr.
of
WILEY, REIN & FIELDING
1776 K Street, N.W.
Washington, D.C. 20006
(202) 429-7000

Its Attorneys

August 30, 1993

No. of Copies rec'd 0+5
List A B C D E

TABLE OF CONTENTS

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition for Rulemaking To Determine The Terms And Conditions Under Which Tier 1 LECs Should Be Permitted to Provide InterLATA Telecommunications Services	)	RM-8303

COMMENTS OF
COMPETITIVE TELECOMMUNICATIONS ASSOCIATION

The Competitive Telecommunications Association ("CompTel"), by its attorneys, respectfully submits its comments on the above-captioned Petition filed jointly by five of the seven Regional Bell Companies ("RBOCs").[1]

As CompTel discusses herein, the RBOCs seek to gain FCC assistance in their quest to eliminate the AT&T Consent Decree[2] and gain unfettered entry into the interLATA marketplace. According to the RBOC Petition, if the FCC will only conduct a rulemaking and enact regulations governing RBOC interLATA services, the U.S. Court of Appeals will act to remove the MFJ restriction on such activities. This FCC action is needed, says the Petition, to inject new competitive fervor into the uncompetitive, oligopolistic

---

[1] The Petitioners are Bell Atlantic, BellSouth Corporation, NYNEX Corporation, Pacific Telesis Group and Southwestern Bell Corporation.

[2] United States v. Amer. Tel. & Tel. Co., 552 F. Supp. 131 (D.D.C. 1982) ("MFJ"), aff'd sub nom Maryland v. United States, 460 U.S. 1001 (1983).

market for interLATA services and to enable the RBOCs to respond to the many pressures and demands of the highly competitive world of intraLATA services.

CompTel submits that simply to state the premise of this RBOC Petition is to show its absurdity. The Petition relies on gauzy visions of the 21st Century, countless inconsistences and expansive exaggerations -- and is greatly premature. At a time when the Commission's resources are stretched far beyond their reasonable capacity with important present day issues, the agency's time should not be wasted on hypothetical future developments. The RBOC Petition should be dismissed.

I. INTRODUCTION AND SUMMARY

Claiming that interLATA competition "has not developed as vigorously as it should have" and that "competition is developing steadily in the local exchange",[3] the RBOC Petition concludes that the "local exchange 'bottleneck' that so concerned Judge Greene is eroding, and with it any semblance of justification for retaining the interLATA prohibition on the RBOCs."[4]

---

[3] Petition at 10.

[4] Id.

To support its gloomy view of interLATA competition,[5] the RBOC Petition offers an eclectic mix of statistics and opinions, principally from outdated Wall Street analyses and FCC policy papers. From the RBOC perspective, the best that can be said of these citations is that they support the proposition that interLATA competition is developing but AT&T's dominance has not yet fully dissipated.

In contrast, the RBOC Petition portrays a cornucopia of new local services and vendors, virtually besieging local telephone companies with competition. These include inside wiring, PBXs, cellular telephones, PCS, competitive access providers and cable television companies. While the RBOC Petition contains virtually no evidence of significant inroads having yet been made in the LEC monopoly, it anticipates such competition "in the years ahead." Given the Commission's current workload, the RBOC Petition should be considered in those future years when some significant level of local competition is present.

Further, the RBOC Petition suggests that the Commission already has most of the necessary safeguards in place for regulation of RBOC interLATA services. In fact, most of the

---

[5] While the RBOC Petition uses the term "long distance" competition, a term normally encompassing both interLATA and intraLATA toll services, CompTel will use the term interLATA competition in these comments. The continued domination of intraLATA services by the RBOCs, perpetuated in large part by their monopoly over 1+ intraLATA traffic, dictates that only interLATA services should be measured when assessing the state of "long distance" competition.

rules cited were not designed to restrain a bottleneck monopolist which competes with its customers in such a direct and vital way. As a result, the rules are woefully inadequate for the purpose suggested by the RBOC Petition.

Overall, the RBOC Petition fails to support its claim of need for FCC action in the foreseeable future. It fails to show (a) the benefit to interLATA competition from RBOC entry, (b) any current tangible effects of competition in local services, or (c) the efficacy of existing FCC rules for the regulation of RBOC interLATA services. Given these deficiencies, the Petition fails to supply the information necessary for the Commission to formulate a rational or coherent rulemaking proposal.

The RBOC Petition for Rulemaking should be dismissed.

II. RBOC ENTRY INTO INTERLATA SERVICES WILL NOT ENHANCE COMPETITION

The public interest to be advanced by RBOC entry into interLATA services, according to the Petition, is the prospect of "an infusion of new competition" which will lead to "lower prices and an explosion of new services."[6] This is allegedly needed because the market has developed into an AT&T-dominated tripartite oligopoly, with little price competition among the participants.

---

[6] Petition at 14.

The only actual figures provided to support this portrayal are:

* AT&T, MCI and Sprint earned a collective 87 percent of interLATA revenues in 1991;

* AT&T's 1991 interLATA market share was 61 percent of revenues and 60 percent of toll minutes; and

* AT&T allegedly has not passed through to consumers all the access charge reductions implemented between 1984 and 1992.

The remainder of this portion of the RBOC Petition is a collection of quotations from selected Wall Street analyst reports issued two or three years ago.

These figures demonstrate only that AT&T continues to be a dominant interLATA carrier, a conclusion that will surprise no one.[7] However, that AT&T's dominance is eroding slowly is not a basis to conclude that competition has had no effect and is not continuing to develop. Indeed, given AT&T's longstanding entrenchment as a monopoly long distance provider and the many advantages it has retained for years after divestiture, the reduction of AT&T's market share to its present levels is a testament to its competitors.

It also bears noting that the pace of development of interLATA competition was slowed in several instances by the

---

[7] In fact, AT&T's continued dominance was recently recognized by the Commission in it's Tariff Forbearance Order. Tariff Filing Requirements for Non-Dominant Common Carriers, CC Docket No. 93-36, FCC 93-401 (Aug. 18, 1993).

actions of the RBOCs themselves. For example, in the multi-billion dollar operator services market, competition developed only after Judge Greene ordered the RBOCs to provide non-discriminatory access to their calling card validation databases.[8] Further, Judge Greene also required the RBOCs to cease giving AT&T a monopoly on service to the nearly 2 million RBOC public pay telephones.[9] Similarly, FCC orders were required to mandate the RBOC actions necessary to enable 800 Service competition with AT&T.[10] Finally, over the past several years, the RBOCs have argued strenuously for the right to restructure their access transport rates in ways that would advantage AT&T over all other carriers.[11]

Moreover, in every state the RBOCs currently retain a monopoly over 1+ intraLATA traffic in their operating

---

[8] United States v. Western Electric, Civ. Action No. 82-0192, 698 F. Supp. 348, 368-369 (D.D.C. 1988). Even then the RBOCs devised a form of calling card, the CIID card, which enables AT&T -- and only AT&T -- to offer customers a 0+ proprietary card. See United States v. Western Electric, Civ. Action No. 82-0192, 739 F. Supp. 1, 10-11 (D.D.C. 1990).

[9] United States v. Western Electric, Civ. Action No. 82-0192, 698 F. Supp. 369 (D.D.C 1988).

[10] Provision of Access for 800 Service, 6 FCC Rcd 5421, 5425 (1991).

[11] See generally Transport Rate Structure and Pricing, CC Docket No. 91-213, Order and Further Notice of Proposed Rulemaking, 6 FCC Rcd 5341 (1991), Report and Order and Further Notice of Proposed Rulemaking, 7 FCC Rcd 7006 (1992), recon., First Memorandum Opinion and Order on Reconsideration, FCC 93-366 (released July 21, 1993), recon., Second Memorandum Opinion and Order on Reconsideration, FCC 93-403 (Aug. 18, 1993).

territories, a $24 billion monopoly[12] they have fought vigorously to maintain.[13] Rather than leading to rapidly lowering prices, the result of this circumstance is that it now often costs more to call between neighboring cities in the same LATA than from San Francisco to New York City. In the face of these and other RBOC actions, it takes real chutzpah for them to now criticize the state of interLATA competition and suggest any shortcomings could be remedied by RBOC participation.

The Petition does grudgingly acknowledge that the price of interLATA calling has "roughly halved," and output "roughly doubled" in the last nine years. This is said to be due to reductions in local access charges, however, not to competition among interexchange carriers. The FCC citation given to support this proposition, however, was not kept in proper context. In that same Price Cap Order,[14] the

---

[12] Statistics of Communications Common Carriers, Dec. 31, 1991, Table 2.6 (p.22).

[13] In fact, the only change in competitive conditions in the intraLATA market now evident is a flurry of activity before state PUCs to expand extended area calling as far as possible as a LEC hedge against future intraLATA toll presubscription. For example, South Carolina has recently given local measured service customers expanded local calling to a distance of 40 miles; in Mississippi, the distance is 55 miles. A pending proposal in New Mexico would expand local calling statewide. In contrast, when the North Dakota Commission adopted 1+ intraLATA presubscription, U S West and others persuaded the state legislature to reverse the policy.

[14] Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313, 4 FCC Rcd 2873 (1989) (Report and Order and Second Further Notice of Proposed Rulemaking).

Commission concluded that "competition appears to be growing," noting the large number of IXCs in operation and the presence of several facilities based carriers.[15] Ironically, the Order noted that the "principal institutional barrier to competition in the basic MTS market" was the "unavailability of equal access."[16]

The RBOC claim that AT&T failed to pass through to consumers all of its access charge savings also has been shown to be erroneous. In a recent letter to Senator Daniel Inouye, Chairman of the Senate Subcommittee on Communications, AT&T explained that recent RBOC filings have actually raised access charges a total of $20 million.[17]

Nor does the Petition describe the manner in which the RBOCs likely would enter the interLATA market -- through construction of facilities, resale, or acquisition of

---

The Petition (at 12) also suggests the interLATA market is characterized by umbrella pricing and then misleadingly quotes from an FCC OPP Policy Paper describing the theory of umbrella pricing in an attempt to imply that the OPP Paper actually found such pricing in interLATA services. The Paper reached no such conclusion.

[15] The RBOC Petition states that there are only three facilities-based IXCs operating nationwide, but ignores the existence of WilTel's national network and the host of other regional interconnected networks (e.g., SP Telecom, LCI International and RCI Long Distance).

[16] 4 FCC Rcd at 3057.

[17] See letter to Honorable Daniel K. Inouye, Chairman, Senate Subcommittee on Communications, from Thomas H. Norris, Vice President, Federal Affairs, AT&T, dated August 2, 1993. ("Norris Letter").

existing companies. If entry is to be by acquisition, the increase in competition promised by the Petition would not follow.

In short, the RBOC Petition fails to show that interLATA competition is not evolving properly or that any public benefits would derive from RBOC participation in the provision of interLATA services.

III. THE RBOC PETITION DOES NOT DEMONSTRATE EFFECTIVE COMPETITION IN INTRALATA SERVICES

The Petition next asserts that today "competitors are rapidly assembling full-fledged alternative networks, using new architectures, new media, and radically new technologies."[18] RBOC interLATA services are said to be necessary, then, to permit them to "compete on an equal basis."[19] To demonstrate this new local competition, the Petition cites four different sources: (1) inside wiring and PBXs, (2) cellular and PCS, (3) CAPs, and (4) cable television companies. The examples of each of those contained in the RBOC Petition, presumably the best that could be found, range from inadequate to laughable.

---

[18] Petition at 14.

[19] Id. at 24.

A. Inside Wiring and PBXs

Although it is not clear that, as the Petition asserts, the inside wiring bottleneck has completely disappeared, it is totally unclear how that event is relevant to interLATA competition. Whether or not inside wiring (or CPE) is an RBOC monopoly, IXCs must still pass through the LEC networks to reach their customers. Inside wiring competition makes not one whit of a difference to the RBOC bottleneck faced by IXCs.

This same analysis is true with regard to PBXs. The CPE market, where PBXs are properly classified, has almost no impact on interLATA transmission competition.

B. Cellular and PCS

The RBOC Petition cites growth statistics for cellular services, and digital expansions of cellular capacity, as evidence of increasing local competition.[20] This view is contradicted, however, by numerous prior RBOC statements.

> The prospect of convergence between radio and landline markets, though often discussed remains quite distant. ... [T]oday, at least, it is still quite clear that mobile services occupy a market separate from stationary ones. ...
>
> It has been suggested, however, that mobile services are converging with landline services; that as prices of handsets and service continue to fall, mobile services may begin to compete with their stationary counterparts. ... [T]hat prediction ... projects quite a distance into the future. Mobile connections today remain *considerably* more expensive than stationary ones. In

---

[20] Petition at 16-17.

> today's market, the two plainly do not compete. Given the vast discrepancy in both price and present levels of penetration, direct competition is nowhere near imminent.[21]

This analysis is even more apt with respect to PCS. The Commission has not yet finalized rules for these services, and even if it does so in the next few months, licenses certainly will not be awarded for at least a year or two thereafter. Given the need to clear spectrum and construct complex, expensive systems, it seems unlikely that PCS services will be widely available for many years.

Moreover, there is simply no basis for assuming that PCS will be effectively competitive with landline local exchange services. Many planned personal communications services, such as improved cordless phones and wireless in-building networks, will not be competitive because they will be interconnected with the wired local network. Others, such as local or wide area microcellular networks, are at least potentially competitive -- but the equipment costs, service rates, and technical capabilities of these systems may well

---

[21] "Report of the Bell Companies on Competition in Wireless Telecommunications Services," October 31, 1991, at 184-185 (emphasis in original, footnotes deleted). Moreover, it seems unlikely that cellular will be vigorously developed as a LEC competitor when eight of the nine largest cellular operators are the RBOCs and GTE (reaching a combined market population of over 260 million (not accounting for Block A and Block B overlap), and thirteen of the largest 20 are LEC controlled. Cellular Telecommunications Industry Association, "State of the Cellular Industry" at 9 (1992).

render them complements to, rather than substitutes for, LEC offerings.

C. CAPs

The Petition claims that CAPs now operate in 24 of the top 25 metropolitan service areas[22] and that the result is vigorous local competition. Ameritech made a similar claim in its recent Petition seeking its own method of entry into interLATA services.[23] CompTel's refutation of the Ameritech position illustrates the competitive situation between RBOCs and CAPs generally.[24]

As CompTel demonstrated, CAP competition is limited in important ways:

- geographically to a few large cities, and to certain areas therein, and
- in service capacity to certain high capacity offerings.

Moreover, much CAP competition is for purely intraexchange services which is in no way relevant to interLATA entry by

---

[22] Petition at 18. The Petition also states that CAPs "serve the cities and regions that contain the headquarters of approximately 70 percent of the companies that appear on the Communications Week 100 List." The relevance of this assertion is not apparent.

[23] Petition for Declaratory Ruling and Related Waivers to Establish a New Regulatory Model for the Ameritech Region, filed by Ameritech on March 1, 1993 ("Ameritech Petition"); see Public Notice, DA 93-481, released Apr. 27, 1993 (establishing pleading cycle for the Ameritech Petition).

[24] Comments of CompTel on the Ameritech Petition, filed June 11, 1993. These Comments are incorporated herein by reference.

the RBOCs. For interLATA access, the RBOC Petition contains no significant evidence of any current lessening of the LEC bottleneck. As AT&T has indicated, in the most recent full year AT&T paid $19 million of a total of $14 billion in access expense to LECs competitors.[25] The LECs thus received 99.86 percent of AT&T's access expenses in 1992. Clearly, the LEC local access bottleneck has not been reduced.

D. Cable Television

The RBOC Petition also envisions substantial local competition from cable television providers, who are portrayed as large and monied monopolists themselves.[26] None of the examples given, however, involve access services -- or even voice services for that matter.

* * * *

[25] Norris Letter, supra n. 18, at 3.

[26] This section of the RBOC Petition is rife with intriguing issues. For example, the Petition asserts that cable operators possess market power because "only about 60 communities have head-to-head cable competition." Petition at 21 n.52. But that is more than double the number of communities with CAPs. In addition, there are many cross-elasticities with cable (e.g., broadcasting and VCRs) that present competition not present for the RBOCs. If these facts show the market power of the cable operators (which they do), how do the RBOCs conclude that LECs are subject to competition when their industry remains even more concentrated?

Overall, the RBOC Petition's attempt to portray their local markets as competitive is feeble in the extreme. As a whole, the showing in the Petition is little more than a compendium of newspaper and magazine articles by industry enthusiasts full of rosy predictions about the future of new technologies. The Petition certainly does not show that in every RBOC market there are at least three competing service providers,[27] the largest of which has approximately a 60 percent market share, nor that prices have been halved (or even reduced) during the past nine years -- the conditions which the Petition finds only pages earlier make the interLATA market non-competitive. And the Petition certainly does not provide evidence sufficient to justify initiation of an FCC rulemaking.

IV. EXISTING FCC RULES WERE NOT ENACTED FOR RBOC INTERLATA SERVICES AND ARE INADEQUATE FOR THE TASK

The RBOC Petition contends that the Commission's existing rules on dominant carrier regulation, equal access, customer premises network information, cross-subsidy, and so on are adequate to prevent RBOC abuses as interLATA competitors. At the same time, the Petition acknowledges

---

[27] The Petition notwithstanding, in nearly every community today there are many more than three interLATA carriers from which consumers may choose, since there are approximately 492 interexchange carriers competing in the U.S. today. Competitive Telecommunications Association, "The Definitive List of Telecommunications Common Carriers" 123-135 (1993).

that these rules need to be revisited because "market and regulatory conditions have changed fundamentally since 1987."[28] More importantly, none of the rules cited was adopted in a proceeding where RBOC interLATA services were contemplated. More than revisitation, these rules would need to be reconsidered from the beginning before being utilized for a purpose so radically different from their original intent. Indeed, given the paucity of data contained in the RBOC Petition, the Commission has not even been given enough information to formulate a legally sustainable Notice of Proposed Rulemaking.[29]

The Petition's reference to FCC experience in regulation of the interLATA services of dominant carriers as relevant to the RBOC proposal illustrates the point. GTE and United Telephone, the two LECs in question, have local service monopolies with dramatically lower geographic concentrations than the RBOCs.[30] With very limited exceptions, virtually all of the nation's largest cities are served by RBOCs. The opportunities and incentives for discrimination and cross-

---

[28] Petition at 34.

[29] See 47 C.F.R. § 1.406 (1992) (FCC will deny a petition for rulemaking if it determines that the petition does not disclose sufficient justification for the institution of a rulemaking).

[30] With only a handful of exceptions, these LECs do not serve large sections of major metropolitan areas and, thus, have much reduced market power in the overall access market.

subsidy differ by orders of magnitude. The Commission's experience with other LECs, then, is not helpful for regulation of RBOC interLATA services.

Moreover, the efficacy of existing Commission RBOC regulations -- even for their intended purposes -- remains an open question. For example, price cap regulation has not yet been subjected to its three year review to determine its effectiveness. And enforcement of existing regulations for RBOC access services already is taxing the Commission's resources. In recent months, the agency has been involved in several investigations of RBOC rates. For example:

- in two separate orders, the Commission ordered about $3 million in overearnings refunds to CompTel members alone;[31]
- the Commission found certain RBOC Line Information Database rates unlawful after an investigation[32]; and
- the LEC 800 access rates[33] and special access interconnection rates[34] currently are under investigation by the Commission.

---

[31] See Competitive Telecommunications Association, et al. v. The Chesapeake and Potomac Telephone Cos., et al., 8 FCC Rcd 1224 (1993); Rate of Return Prescription for the 1987-88 Monitoring Period, 8 FCC Rcd 1876 (1993).

[32] Local Exchange Carrier Line Information Database, CC Docket No. 92-24, FCC 93-400 (released August 23, 1993).

[33] 800 Data Base Access Tariffs, Order Designating Issues for Investigation, CC Docket No. 93-129, DA 93-930 (released July 19, 1993).

[34] Local Exchange Carriers' Rate, Terms, and Conditions for Expanded Interconnection for Special Access, CC Docket No. 93-162, DA 93-951 (released July 23, 1993).

These events do not suggest current FCC rules or resources are adequate to police a greatly expanded sphere of RBOC activity.

V. THE PETITION FAILS TO SHOW A NEED FOR AN FCC RULEMAKING

The previous discussion demonstrates that the RBOC Petition shows no significant flaws in the interLATA marketplace which RBOC entry could remedy and cites no convincing evidence of real competitive forces in RBOC local services. This being the case, allocation of scarce Commission resources to a rulemaking on RBOC interLATA entry would be a wasteful expenditure of precious manpower.

The Commission has made no secret of its dire shortage of resources. Commissioners have publicly acknowledged the "severe resource problems facing the FCC," problems which have been aggravated by the mammoth task of implementing the 1992 Cable Act.[35] Chairman Quello testified before Congress that "[d]uring the last dozen years the FCC has seen its ability to function effectively stretched to the breaking point by budget constraints."[36] In other testimony, Chairman Quello emphasized: "I cannot say more plainly that this is an agency already stretched to and in many places beyond, its

---

[35] See Letter from FCC Commissioners to Hon. Ernest F. Hollings (June 4, 1993), at 1.

[36] See Statement of James H. Quello, FCC Chairman, Before the Subcommittee on Commerce, Justice, State, and Judiciary, Committee on Appropriations, United States House of Representatives, March 25, 1993 at 2.

capacity."[37] Characterizing the FCC as "understaffed" and "underfinanced," Chairman Quello acknowledged that the FCC has tried to "'borrow from Peter to pay Paul'" by using resources from other FCC bodies, including the Common Carrier Bureau, to implement the 1992 Cable Act.[38] With respect to the FCC's cost allocation rules, Chairman Quello expressly endorsed the findings of a recent GAO Study, and noted that "we lack enough auditors to do as much common carrier auditing as we are expected to do."[39] Indeed, the Chairman estimated that 50 percent of the existing understaffed accounting group might have to be diverted to Cable Act implementation.[40]

The drain on the Commission's resources which would

---

[37] See Statement of James H. Quello, FCC Chairman, Before the Subcommittee on Telecommunications and Finance, Committee on Energy and Commerce, United States House of Representatives, June 17, 1993 at 16.

[38] Id. at 4 & 6.

[39] Id. at 6 & 8. In a study entitled "Telecommunications: FCC's Oversight Efforts to Control Cross-Subsidization" (February, 1993) [hereinafter "GAO Study"], the U.S. General Accounting Office ("GAO") concluded that the FCC's "staffing level cannot provide positive assurance that rate payers are protected from cross-subsidization." GAO Study at 2. Staffing was insufficient in 1987 when the GAO first studied this issue and staffing has become even more inadequate in the meantime. Id. The current auditing staff as of September, 1992 (only 14 persons) could conduct an audit of the highest-priority areas only once every 11 years and of all areas only once every 18 years. Id. Further, the GAO Study concluded that there is no acceptable alternative to on-site audits. Id.

[40] Id. at 8.

result from a rulemaking like that sought by the Petition should not be underestimated. The issues involved are exceedingly complex and contentious. With the initiation of this rulemaking will come mountains of paper and countless meetings and inquiries.

Importantly, it is very possible that even if the Commission were to grant the RBOC request and proceed with a rulemaking, all efforts could be mooted before they could take effect. The Petition implies that the Court of Appeals has promised an automatic MFJ revision upon FCC enactment of safeguards. In fact, a lengthy judicial proceeding will be required and its outcome is uncertain. As the United States Court of Appeals for the District of Columbia Circuit has emphasized, the MFJ Court is "obliged to determine ultimately whether the FCC's regulations [] effectively prevent the BOCs from using their monopoly power to impede competition in the markets they [seek] to enter."[41]
Moreover, such a finding from the Court seems doubtful.[42]

Further, the possibility of superseding legislation also could moot an FCC rulemaking before its completion. The Congress has been considering various proposals for MFJ

---

[41] United States v. Western Electric, 900 F. 2d 283, 298 (D.C. Cir.) (emphasis in original), aff'd sub nom MCI Communications v. United States, 111 S.Ct. 283 (1990).

[42] Even if the FCC were able to adopt and enforce perfect safeguards, the intrastate interLATA portion of the marketplace would remain unprotected.

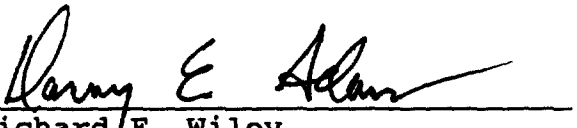
relief for some time, and this is currently under active consideration.[43] In fact, the Congreswill be the primary battleground for MFJ modification for the forseeable future. In light of the Congress' active role, devotion by the Commission of its limited resources for the purpose sought by the RBOC Petition would be unwise.

CONCLUSION

For the foregoing reasons, the RBOC Petition should be dismissed.

Respectfully submitted,

COMPETITIVE TELECOMMUNICATIONS ASSOCIATION

By: 

Genevieve Morelli
Vice President and
General Counsel
COMPETITIVE TELECOMMUNICATIONS ASSOCIATION
1140 Connecticut Ave., N.W.
Suite 220
Washington, D.C. 20036
(202) 296-6650

Richard E. Wiley
Danny E. Adams
Edward A. Yorkgitis, Jr.
of
WILEY, REIN & FIELDING
1776 K Street, N.W.
Washington, D.C. 20006
(202) 429-7000

Its Attorneys

August 30, 1993

---

[43] See, e.g., S. 1086, Telecommunications Infrastructure Act of 1993 (sponsored by Senator J. Danforth - R. Mo.). A hearing on this bill was held on July 14, 1993.

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of August, 1993, copies of the foregoing **COMMENTS OF COMPETITIVE TELECOMMUNICATIONS ASSOCIATION** were served via hand delivery* or first class mail, postage prepaid, to the parties on the attached service list.

Lisa Henry

Edward D. Young, III
John M. Goodman
1710 H Street, NW
Washington, DC 20006
Counsel for Bell Atlantic

William Barfield
Richard Sbaratta
1155 Peachtree Street, NE
Suite 1800
Atlanta, GA 30367
Counsel for BellSouth Corp.

Gerald E. Murray
Thomas J. Hearity
1113 Westchester Ave.
White Plains, NY 10604
Counsel for NYNEX Corp.

James P. Tuthill
Alan Ciamporcero
1275 Pennsylvania Ave., NW
Washington, DC 20004
Counsel for Pacific Telesis Group

Michael K. Kellogg
Kellogg, Huber & Hansen
1301 K Street, NW
Suite 1040E
Washington, DC 20005
Counsel for the Bell Companies

Paul Lane
Dale Hartung
Thomas Horn
175 E. Houston
Room 1260
San Antonio, TX 78205

Martin Grambow
1667 K Street, NW
Washington, DC 20006
Counsel for Southwestern Bell Corp.

Chairman James Quello*
FCC
Room 802
1919 M Street, NW
Washington, DC 20006

Commissioner Ervin Duggan*
FCC
Room 832
1919 M Street, NW
Washington, DC 20006

Commissioner Andrew Barrett*
FCC
Room 844
1919 M Street, NW
Washington, DC 20006

Kathleen Levitz*
Chief, Common Carrier Bureau
FCC
Room 500
1919 M Street, NW
Washington, DC 20006